

REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested. Applicant hereby petitions under 37 C.F.R. § 1.136 for a three (3) month extension of time.

CLAIM OBJECTIONS

The examiner objected to claim 19 stating that the terms "inner end" and "outer end" seem to imply that the ends are on the inside and outside of the tube. Applicant has amended the claims to replace the term "inner end" with "distal end" and "outer end" with "proximal end." Applicant respectfully submits that the claim objection has been overcome.

REJECTION OF CLAIMS 19 AND 21 35 U.S.C. §102(b)

Claims 19 and 21 are rejected under 35 U.S.C. §102(b) as allegedly being allegedly anticipated by U.S. Patent No. 3,788,327 to Donowitz. However, Donowitz fails to teach or suggest every element of claims 1 and 21. For example, Donowitz fails to teach or suggest a flexible fluid transfer tube that is removably from the eye.

Donowitz describes a shank that is implantable in the eye. Donowitz fails to teach or suggest that the shank is flexible. Moreover, the shank in Donowitz is not configured to be removed from the eye. The shank has proximally-facing barbs 46 that would resist movement out of the eye. If the Donowitz device were removed from the eye, the barbs would resist movement and likely damage the eye tissue.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the rejection of independent claims 19 and 21.

REJECTION OF CLAIMS 4, 5, 9, AND 26 UNDER 35 U.S.C. §103

Claim 20 was rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Donowitz in view of U.S. Patent No. 5,743,868 to Brown. As discussed above, independent claim 19 recites features that are not taught or suggested by Donowitz. Brown fails to provide the missing teachings. Claim 20 is patentable based on its dependency on claim 19 as well as on its own merit.

NEW CLAIMS

Claims 22-30 are new. Applicant submits that the new claims recite features that are not taught or suggested by the cited art.

CONCLUSION

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper.

Applicant : Minas Theodore Coroneo
Serial No. : 10/579,330
Filed : August 8, 2006
Page : 8 of 8


Attorney's Docket No.: 37528-503N01US

In view of the above amendments and remarks, reconsideration and allowance of the application are respectfully requested.

Please apply any charges not covered, or any credits, to Deposit Account No. 50-0311.

Respectfully submitted,

Date: April 2, 2008



Fred C. Hernandez
Reg. No. 41,832

PTO Customer No. 64046

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
5355 Mira Sorrento Place, Suite 600
San Diego, California 92121
Telephone: (858) 320-3018
Fax: (858) 320-3001
Email: fbernandez@mintz.com